

The Administrative Law Judge (ALJ) found that claimant suffered no permanent impairment as a result of his work-related accidental injury of August 28, 2002. The ALJ also found that claimant is entitled to payment of the medical bills of Eagle Med, since his

treating physician authorized claimant's transfer from St. Catherine Hospital in Garden City to the burn center in Wichita. Accordingly, the cost of that transfer was also deemed authorized.

Respondent contends the ALJ erred in ordering it to pay the bill incurred by claimant with Eagle Med, arguing that claimant's transfer to the burn center in Wichita was not medically necessary.<sup>1</sup>

Claimant has not filed a brief in this appeal.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the evidentiary record filed herein, the stipulations of the parties, and having considered the parties' briefs and oral arguments, the Board makes the following findings of fact and conclusions of law:

Claimant was injured on August 28, 2002, when he was electrocuted while replacing a switch on a metal detector. He was taken to St. Catherine Hospital (St. Catherine) in Garden City, where he was treated by Dr. Fady Jabre. Claimant stated that Dr. Jabre recommended he be sent to the burn center in Wichita for further evaluation and filled out the documentation for the transfer. Claimant testified that apparently Dr. Terry Hunsberger decided after the fact that it would not be necessary for him to be transferred to the burn center but, by that time, claimant was already on his way to Wichita. He was air flighted to Wichita by Eagle Med.

[CLAIMANT]: Just to clarify a little bit more. Dr. Jabre recommend[ed] that I go to the burn center for further evaluation and he willingly filled out all the documentation to do it. I don't remember everything that happened because I was kind of in and out, because I'd gotten shocked. But we have all the paperwork supporting that and I do believe that it was after, that I was already on my way to Wichita, that Dr. Hunsberger decided that it wasn't necessary. But I'm not sure exactly at what point that determination was made but it was after Dr. Jabre had already sent me on my way.<sup>2</sup>

Claimant missed three days of work due to the injuries he suffered in the accident. He is not seeking any temporary total disability benefits and is not claiming that he received any permanent disability from his accident. The only issue before the ALJ and the Board is whether the cost of airlifting claimant from St. Catherine to the burn center at St. Francis Hospital in Wichita was medically necessary.

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<sup>1</sup> Respondent is not objecting to paying the medical bills from the burn center in Wichita, only the bill for transporting claimant to the burn center.

<sup>2</sup> R.H. Trans. at 11.

Dr. Jabre testified that he saw claimant in the emergency room at St. Catherine and treated him for an electrical burn. He said that St. Catherine did not have the amperage to see how deep or severe the burn went inside claimant's muscles or veins. Claimant was treated with IV fluids and his vital signs were monitored. Dr. Jabre testified that he felt claimant could be treated at St. Catherine; however, claimant's family requested that he be sent to a burn center. Dr. Jabre said he did not think it was necessary to transfer claimant. Nevertheless, because claimant, claimant's family, the nursing coordinator and the Director of Nursing wanted it, he agreed to the transfer. Dr. Jabre noted: "If you [are] going to transfer somebody with a burn to a burn center it's better to be transferred by aircraft."<sup>3</sup>

Dr. Hunsberger testified that he is the workers compensation physician for respondent. He was called by Dr. Jabre, who told him he thought claimant should be hospitalized overnight. Without having seen claimant, Dr. Hunsberger agreed with Dr. Jabre's assessment. Dr. Hunsberger called a cardiologist in Wichita, who told him if there were no cardiac arrhythmias, it would be safe to watch claimant at St. Catherine. Later, Dr. Jabre called him and told him that claimant's family had insisted that claimant be transferred to the burn center in Wichita. It was Dr. Hunsberger's opinion that it was not medically necessary for claimant to be transferred to the burn center in Wichita. Dr. Hunsberger saw claimant for the first time on September 3, 2002, and noted that claimant had no injuries, nor did he see any burns.

Respondent does not dispute that Dr. Jabre was authorized to treat claimant and that Dr. Jabre authorized claimant to be transferred to the burn center in Wichita. Accordingly, the fee charged by Eagle Med to transport claimant from Garden City to Wichita was authorized medical treatment. At the time, Dr. Jabre obviously decided it was reasonable and necessary for claimant to be examined at the burn center in Wichita. And Dr. Jabre was the primary treating physician for claimant at that time. Although Dr. Jabre was in communication with Dr. Hunsberger by telephone, Dr. Hunsberger was not directly involved in treating claimant.<sup>4</sup> He did not see claimant until six days later. Whether in hindsight it can be determined that the transfer to Wichita was not necessary is not the test. At the time Dr. Jabre made the decision to transfer claimant, it was a medically reasonable precaution. Moreover, it was ordered by the authorized treating physician. Accordingly, the Eagle Med bill is ordered paid by respondent and its insurance carrier.

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<sup>3</sup> Jabre Depo. at 7.

<sup>4</sup> Dr. Jabre testified that he was the only physician treating claimant on the date of the accident. Likewise, the claimant's patient records from St. Catherine show Dr. Jabre as the treating physician. See Jabre Depo. at 6, Cl. Ex. 1.

**AWARD**

**WHEREFORE**, it is the finding, decision and order of the Board that the Award of Administrative Law Judge Pamela J. Fuller dated October 19, 2006, is affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of February, 2007.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Kevin Stuart Twiss, 2921 Belmont Pl., Garden City, KS, 67846, Claimant pro se  
Terry J. Malone, Attorney for Respondent and its Insurance Carrier  
Pamela J. Fuller, Administrative Law Judge